

August 25, 2000

Beth Hayden,  
Agricultural Marketing Specialist, National Organic Program,  
USDA/AMS/TM/NOP, Room 2510-So., Ag Stop 0268  
P.O. Box 96456, Washington, D.C. 20090-6456.

Re: 7 CFR Part 205  
[TM-00-07]  
RIN 0581-AA40

Dear Beth:

OCIA is commenting on the issue of reasonable security by answering your questions as follows.

1. From what risks or events might a customer of a private certifying agent require reasonable security

OCIA's Comment: The most significant event would be wrongful de-certification of an operation. Another very significant event would be the disclosure of confidential business information. The negative impact on an operation of any conflict of interest in the certification process would be a third event.

2. What are the financial instrument(s) that could provide the reasonable security to protect customers from these events?

OCIA's comment: It is standard business practice to carry errors and omissions insurance, which would cover the above events. Directors and Officers insurance and general liability insurance provide additional coverage options. OCIA is opposed to any additional set-asides of funds, other than through insurance programs, to provide the USDA with "reasonable security." As a principle of good business practice, OCIA invests in errors and omission insurance, directors and officers insurance, and general liability insurance. We believe that any event which would fail in "protecting the rights of participants in the applicable organic certification program established under this chapter"(OFPA Language), is covered by this insurance.

3. What dollar amounts of security would give reasonable protection to a customer of a private certifying agent?

OCIA's comment: This will depend upon the nature of the operations certified by the certification organization. A small regional certification organization certifying local producers will have a different risk than an organization certifying large farming, handling, and processing companies who are multi-million dollar operations. The USDA should try to work out a requirement that is equitable for the existing regional, national, and international certification programs. OCIA's errors and omissions, directors and officers, and general liability insurances all provide coverage up to \$1million per event.

4. What are the financial costs to private certifiers, especially small certifiers, of providing reasonable security?

OCIA's Comment: OCIA pays \$6000 for errors and omissions insurance, \$2600 for general liability insurance, and \$3500 for directors and officers insurance.

5. Do the risk or events provided in response to Question #1 necessarily require financial compensation?

OCIA's comment: If the certifier is sued, the events may require financial compensation.

6. Are there situations where reasonable security is not needed?

OCIA Comment: We do not understand the question, and what is meant by "situations."